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Lashway, Lisa

From: Lashway, Lisa
Sent: Saturday, February 18, 2012 9:37 AM
To: Greenbaum, Rob; Canning, Sean
Subject: Correspondence - FW: 2-17-12a Housing

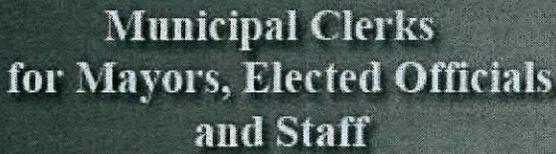
Please see information below.

Michelle Masser
Deputy Clerk

Township of Mount Olive
P.O. Box 450
Budd Lake, NJ 07828
973-691-0900 Ext. 7290

From: NJLM to Municipal Officials [mailto:njlm-clerks@cityconnections.com]
Sent: Friday, February 17, 2012 3:57 PM
To: Lashway, Lisa
Subject: 2-17-12a Housing

To view an online version of this email, click [here](#).



February 17, 2012

Re: I. S-1566, the “New Jersey Residential Transformation Act”
II. Update on Legal Challenges involving Affordable Housing
III. Municipal Housing Trust Funds

Dear Mayor:

I. S-1566, the “New Jersey Residential Transformation Act”

Yesterday, the Senate Economic Growth Committee amended and approved S-1566, sponsored by Senators Lesniak and Buono. The bill would establish a statewide program to transition foreclosed property into affordable housing. Under the bill, a new corporation would be created under the New Jersey Housing and Mortgage Finance Agency (HMFA) to use funds from the State Affordable Housing Trust Fund to purchase and deed-restrict foreclosed properties to be used as affordable housing. The corporation would expire at the end 2017.

Under the program, a municipality will be given the right of first refusal to purchase a foreclosed home using its trust fund dollars. Such a house that is then deed-restricted as part of the municipality’s affordable housing inventory would result in a 2-for-1 credit towards the municipality’s affordable housing obligation. If the municipality declines to purchase the home, it can still qualify for the credits if it authorizes, by resolution, the state corporation to use the municipality’s trust fund dollars to purchase an eligible property, which is then converted to affordable housing.

Under both circumstances, the use of the municipal trust fund dollars is done with the consent of the municipality. This was achieved by an amendment requested by the League. For this reason, the League testified in support of this voluntary legislation, which provides an option for municipalities to expend their trust fund dollars with certainty that the units and credits will count towards its housing obligations, whenever such obligations are finally determined. S-1566 now heads to the Senate Budget and Appropriations Committee for consideration. An Assembly companion was proposed for introduction yesterday by Assemblymen Jerry Green, Troy Singleton and Albert Coutinho.

II. Update on Legal Challenges involving Affordable Housing

While COAH is abolished, the ongoing court challenges continue. As you know, in the matter of the ongoing challenges to the 2008 regulations of

the Council on Affordable Housing (COAH) the League's request for certification to the State Supreme Court was granted last March. COAH was abolished by Governor Christie's **Reorganization Plan No. 001-2011 and its responsibilities transferred to the Department of Community Affairs**. For more on this, please see the League's September 16 2011 Dear Mayor letter at: <http://www.njslom.org/letters/2011-0916-COAH-reorg.html>

However, the issue before the Supreme Court is not a "COAH" issue per se, but rather the constitutionality of "growth share" as a means to implement both the Court doctrine and the Fair Housing Act. Regardless of the Court's actions, at some point an appropriate methodology and/or a prospective housing obligation will likely be determined. In this matter, we await the scheduling of oral argument.

On Wednesday, the Appellate Division of the Superior Court of New Jersey heard oral argument in an appeal of Governor Christie's reorganization plan brought forth by the Fair Share Housing Center. Fair Share's appeal basically challenges whether the Reorganization plan exceeds the Executive Authority of the Governor. For more on this, please see the League's Dear Mayor letter of October 20 at: <http://www.njslom.org/letters/2011-1020-COAH.html>. A decision in this matter is expected within 60 days.

III. Municipal Housing Trust Funds, July 2012 deadline

PL 2008, c. 46 established a 4-year window on existing trust fund dollars as well as newly collected funding. **The 4-year window for local trust fund dollars expires in July, 2012. At that time, the State could seize local trust fund dollars in place in 2008 that have not been "committed"**. The law was signed just before COAH's 3rd round regulations were to be adopted. However, the adopted regulations were legally challenged by the League, the development community, housing advocates and many individual municipalities, and were subsequently invalidated by the Appellate Division. As noted above, these challenges await oral argument by the State Supreme Court.

Many municipalities submitted third round compliance plans to COAH for

review prior to the end of December 2008, but, since the regulations were invalidated those plans were not approved and municipalities have operated in a period of uncertainty. To date, what is meant by the funds being “committed” has not been defined. Because of the uncertainty of COAH, and whether any new units would count towards a future obligation, many municipalities are uncertain as to how to proceed in the current environment.

The League recently met with DCA Acting Commissioner Constable and staff, and we were advised that the Department may soon propose regulations to offer guidance on the issue. We will advise you of any developments.

Questions on this letter can be directed to Mike Cerra at mcerra@njslom.com or 609-695-3481 x120.

Very truly yours,

William G. Dressel, Jr.
Executive Director

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New Jersey League of Municipalities
222 West State Street, Trenton, NJ 08608
609-695-3481

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